

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION (L) NO. 2699 OF 2006

Motorola India Pvt. Ltd. & Ors. ... Petitioners

V/s.

Inspector of Legal Metrology ... Respondents
& Ors.

Dr. Mr. Virendra Tulzapurkar, Sr. Counsel with Mr.
Amit Jamsandekar i/b. M/s. D.H. Law Associates for the
petitioners.

Mr. J.K. Mistry for respondent No.1.

Mr. K.R. Belosey for respondent No. 2.

**CORAM : F.I. REBELLO &
 ANOO V. MOHTA, JJ.**

DATED : 28th November, 2006

P.C.

. Rule. Heard forthwith.

2. The issue pertains to sun-glasses with communication devices, which have been seized by respondent Nos. 1 & 2, on the basis that the petitioners have contravened the provisions of the Standards of Weights and Measures Act, 1976 and the provisions of the Standards of Weights and Measures (Enforcement) Act, 1985 and the Rules framed thereunder. The issue of sun-glasses has been considered by us in Writ Petition No. 120 of 2004 which was decided on 5th May, 2006 by holding that merely because the sun-glasses are packed for safety,

that cannot be treated as a prepacked commodity. The issue as to whether what is a prepacked commodity, has been further elaborated by the judgment in Titan Industries Ltd. V/s. Union of India & Ors., decided on 10th July, 2006 in Writ Petition No. 1484 of 2002.

3. Considering the tests laid down in the two judgments, it cannot be said that the sun-glasses with the communication devices attached to it, is a prepacked commodity.

4. In the light of that, petition is to be allowed and consequently Rule made absolute in terms of prayer clauses (a),(b),(c) & (e). There shall be no order as to costs.

[F.I. REBELLO, J.]

[ANOO V. MOHTA, J.]